



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date Amended:	Enrolled	Bill No:	AB 433
Tax:	Ballast Water Fee	Author:	Nation
Board Position:		Related Bills:	

This analysis will only address the bill's provisions that impact the Board.

BILL SUMMARY

Among other things, this bill would:

- Rename the “Ballast Water Management Fee Law” to the “Marine Invasive Species Fee Collection Law”,
- Extend the sunset date for the Fee from January 1, 2004 to January 1, 2010, and
- Require the Board to collect the Marine Invasive Species Fee from the owner or operator of each vessel that arrives at a California port or place from a port or place outside of California, as specified.

ANALYSIS

Current Law

Under existing law, Section 71215 of the Public Resources Code requires the State Lands Commission (Commission) to establish a reasonable and appropriate fee to carry out the California Ballast Water Management for Control of Nonindigenous Species Act in an amount not to exceed one thousand dollars (\$1,000) per vessel voyage. This fee is known as the Ballast Water Management Fee. The Commission has sole rate setting authority to raise and lower the fee in addition to adjusting the fee for inflation every two years. The fee is currently set at \$200 per qualifying voyage.

The Board collects the Ballast Water Management Fee from the owner or operator of each vessel that enters a California port with ballast water loaded from outside the exclusive economic zone (EEZ). The Board administers and collects the Ballast Water Fee in accordance with the Ballast Water Management Fee Law. The fees collected are deposited in the State Treasury to the credit of the Exotic Species Control Fund.

The Ballast Water Fee and the Ballast Water Management Fee Law will be repealed as of January 1, 2004, unless a later enacted statute deletes or extends that date.

Proposed Law

This bill would revise and recast the provisions of Division 36 (commencing with Section 71200) of the Public Resources Code, which would be known as the "Marine Invasive Species Act."

Among other things, this bill would amend Section 71215 to require the Commission to establish, through regulation, a reasonable and appropriate fee solely for the purposes

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of carrying out the Marine Invasive Species Act. The fee established would not exceed one thousand dollars (\$1,000) for each voyage, as specified.

Pursuant to the Marine Invasive Species Fee Collection Law, the Board would collect the fee from the owner or operator of each vessel that arrives at a California port or place from a port or place outside of California. The fee would not be assessed on any vessel arriving at a California port or place if:

- That vessel comes directly from another California port or place, and
- During that transit has not arrived at a port or place outside California or moved outside the EEZ prior to arrival at the subsequent California port or place.

The fees imposed would be deposited into the Marine Invasive Species Control Fund, which this bill would create. This bill would also require all money accruing to the Exotic Species Control Fund to be transferred to the Marine Invasive Species Control Fund.

This bill would amend Section 44000 of the Revenue and Taxation Code to rename the "Ballast Water Management Fee Law" to the "Marine Invasive Species Fee Collection Law." The bill would also amend Section 44005 to correct a reference error.

This bill would amend Section 44007 to provide that the Board transmit payments of the fee to the Treasurer to be deposited in the State Treasury to the credit of the Marine Invasive Species Control Fund, which this bill would establish.

This bill would additionally amend Section 71271 of the Public Resources Code and Section 44008 of the Revenue and Taxation Code to extend, from January 1, 2004 to January 1, 2010, the sunset date of the Marine Invasive Species Act and newly named Marine Invasive Species Fee Collection Law, respectively.

This bill would become operative January 1, 2004.

Background

In 1999, Assembly Bill 703 (Ch. 849, Stats. 1999) added Division 36 (commencing with Section 71200) to the Public Resources Code to address the introduction of nonindigenous aquatic species. Among other things, that bill requires the Board to collect a fee from the owner or operator of each vessel that enters a California port with ballast water loaded from outside the EEZ.

Assembly Bill 2380 (Ch. 110, Stats. 2000) added the Ballast Water Management Fee Law to provide necessary fee collection and other administrative provisions required for the Board to comply with the requirement to collect the Ballast Water Management Fee

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by Ocean Conservancy and is intended to move the state expeditiously toward elimination of the discharge of nonindigenous species into the waters of the state or into waters that may impact the waters of the state, based on the best available technology economically achievable.
2. **Key amendments.** The **August 18 and June 3, 2003**, amendments did not affect the Board's administration of the Marine Invasive Species Fee program. The **June**

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2, 2003, amendments clarify that the Commission would establish rather than assess the Marine Invasive Species Fee, remove duplicative fee collection language, rename the "Ballast Water Management Fee Law" the "Marine Invasive Species Fee Collection Law," and correct a reference error.

The **April 21, 2003**, amendments require the Board to collect the Ballast Water Management Fee from the owner or operator of each vessel that arrives at a California port or place from a port or place outside of California. The amendments also duplicate the Board's collection and administrative provisions from the Ballast Water Management Fee Law into the Public Resources Code. The remaining amendments to the bill would not affect the Board's administration of the Ballast Water Management Fee program.

3. **Suggested technical amendment.** This measure does not define the term "California port or place." In order to avoid any ambiguity in administering the provisions of this measure, it is recommended that a precise definition be incorporated into the bill.
4. **Provisions would not be problematic to administer.** Enactment of this measure would not materially affect the Board's administration of the current Ballast Water Management Fee program.
5. **This bill would require that the Board's contract with the Commission be renegotiated.** This bill proposes to revise and extend an existing fee beyond its January 1, 2004 repeal date, which would occur during the middle of the Board's current contract with the Commission to administer the fee for fiscal year 2003-04. In order to begin to develop computer programs, revise forms and publications, notify fee payers, mail additional billings, process additional payments, and train staff, the Board would need to renegotiate its contract with the Commission to cover the Board's start-up costs that would not already be identified in the 2003-04 contract.

COST ESTIMATE

Although the current Ballast Water Management Fee will be repealed as of January 1, 2004, the Board will continue to receive funding through June 30, 2004 for the collection of assessments, making of refunds, and the disposition of money collected. The Board's fiscal year 2003-04 budgeted base for the existing Ballast Water Management Fee program, which will expire June 30, 2004, is \$407,000.

Additionally, with respect to the provisions of this bill, during fiscal year 2003-04, the Board would incur start-up costs of approximately \$51,000 to develop computer programs, revise forms and publications, notify fee payers, mail additional billings, process additional payments, and train staff. As mentioned in comment 5, the current contract would need to be renegotiated to include these additional costs.

The estimated on-going costs to administer the new Marine Invasive Species Fee Collection Law program are approximately \$407,000 beginning in fiscal year 2004-05, and annually thereafter.

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REVENUE ESTIMATE

With its inception on January 1, 2000, the Ballast Water Management for Control of Nonindigenous Species Act of 1999 established a statewide, multi-agency program to prevent or reduce the introduction and spread of nonindigenous aquatic species into the state waters. The owner or operator of each vessel that enters a California port with ballast water loaded from outside the EEZ is required to pay a fee not exceeding \$1000 per vessel (may be adjusted for inflation every two years). The fee is established by the Commission and collected by the Board.

Based on the Board's annual report, the following depicts revenues generated since the program's inception:

1999 – 00 (1/2 year)	\$1.50 million
2000 – 01	\$2.62 million
2001 – 02	\$2.35 million

With the assistance of the Board's Excise Tax and Fees Division, the Commission provided pertinent statistics. The Commission estimated 5,700 qualifying voyages under the existing program. Under this bill, "vessel" would be defined to mean a vessel of 300 gross registered tons or more and "voyage" would be defined to mean any transit by a vessel destined for any California port or place from a port or place outside of the coastal waters of the state. The Commission estimated that additional 1800 voyages would qualify under these new definitions.

The Commission assumed a 95% compliance rate with the fee submission. The total number of voyages is estimated to be around 7,125 ($5700 + 1800 \times 95\% = 7,125$). Based on this and other assumptions, the Commission calculated a per voyage fee of \$500 effective January 1, 2004.

It is estimated that revenue generated in the first year would be about \$3.6 million ($\$500 \times 7,125 \text{ voyages} = \3.6 million).

Revenue Summary

This bill would expand the number of vessels subject to the Marine Invasive Species Fee (Ballast Water Management Fee) and extend its repeal date until January 1, 2010. The fee is estimated to raise about \$3.6 million annually.

Analysis prepared by:	Cindy Wilson	916-445-6036	09/12/03
Revenue prepared by:	Ronil Dwarka	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	
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